IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 25235 of 2005

Between:

M. Brahmam

..... PETITIONER

AND

The Chief Rationing Officer,

City Twin Cities, at Secunderabad

and another

.....RESPONDENTS

ORDER:

Seeking to set aside the orders of the 2nd respondent in case No.453/2005 under the file No.B1/2380/2005, dated 02.11.2005 and to direct the 2nd respondent to supply the essential commodities to the petitioner fair price shop, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

It is stated that the petitioner is a fair price shop dealer of Shop No.831, situated at New Boiguda, Secunderabad, and he has been carrying on business since 1974 without any complaint whatsoever. It is stated that basing on a news item published in Andhra Jyothi daily newspaper dated 10.05.2005, making vague and untenable allegations, the dealership of the petitioner has been suspended by the 2nd respondent 27.05.2005 on the ground that the petitioner supplied less quantity of commodities to certain cardholders and collected excess money against certain cardholders and misbehaved with certain cardholders. Thereafter a show cause notice dated 09.09.2005 has been issued, framing the following four charges:

> Charge No.1: That the dealer has issued less quantity to an extent of (45) Nos. cardholders and thus contravened condition 11 of the Authorisation issued under A.P.S.P.D.S(c) Order 2001;
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> Charge No.2: That the dealer has issued less weighment to an extent of (15) Nos. cardholders and thus contravened condition 7 of the Authorisation issued under A.P.S.P.D.S.(c) Order 2001;
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> Charge No.3: That the dealer has collecting excess amount from the cardholders to an extent of (16) Nos. cardholders and thus contravened condition 11 of the Authorisation issued under A.P.S.P.D.S.(c) Order 2001;
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> Charge No.4: That the dealer has failed to open his FP Shop on scheduled timings as prescribed by the Government and thus contravened clause 22 (vi) of the A.P.S.P.D.S.(c) Order, 2001 and condition (3) (2) of the authorization issued under A.P.S.P.D.S.(Control) Order, 2001;

Explanation has been submitted by the petitioner on 20.09.2005, denying all the allegations made in the show cause notice, stating that the petitioner never supplied any less quantity of commodities to any of the cardholder and he has never issued any less weighment to any of the cardholders and he has been issuing salt packets while issuing essential commodities to the cardholders and he never collected any excess amount, and also the records have been maintaining properly, and thus, it is stated that the petitioner never violated any terms and conditions of the authorization. It is stated that without adverting to any of the contentions, final orders have been passed on 02.11.2005 stating that the petitioner issued less quantity of kerosene to few cardholders and also issued less quantity of essential commodities to certain cardholders.

After issuing show cause notice, it appears that, no enquiry has been made and no material particulars have been furnished relating to the alleged irregularities, said to have been committed by the petitioner. However, as the appeal is pending before the 1st respondent, it is not just and proper to express any opinion on merits of the case. But, having regard to the facts and circumstances of the case and having regard to the fact that no material particulars have been narrated in the cancellation order, it is just and proper to grant stay of the operation of the cancellation order, pending disposal of the appeal.

Accordingly, the Writ Petition is disposed of, directing the

1st respondent to consider and dispose of the appeal itself as expeditiously as possible, in accordance with law, after giving a reasonable opportunity to the petitioner. Pending disposal of the appeal, the impugned cancellation order dated 02.11.2005 shall be kept in abeyance, and the petitioner may be permitted to supply essential commodities in the meantime. No order as to costs.

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V.ESWARAIAH,J

Dated: 28.11.2005

Dsr

Note:

Issue CC in two days

B/o

Dsr